

Montana Department of Public Health & Human Services

Public Health & Safety Division

Communicable Disease Control & Prevention Bureau

Food & Consumer Safety Section

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Food Establishments

Title 50, Chapter 50, MCA

Title 50 Chapter 50  
RETAIL FOOD ESTABLISHMENTS

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### **50-50-101. Purpose of regulation.**

Regulation of establishments defined in 50-50-10250-50-102 is required to prevent and eliminate conditions and practices which endanger public health.

**History:** En. Sec. 1, Ch. 17, L. 1967; R.C.M. 1947, 27-611.

### **50-50-102 - Definitions.**

Unless the context requires otherwise, in this chapter, the following definitions apply:

- (1) "Baked goods" means breads, cakes, candies, cookies, pastries, and pies that are not potentially hazardous foods.
- (2) "Consumer" means a person who is a member of the public, takes possession of food, is not operating an establishment, and does not offer the food for resale.
- (3) "Department" means the department of public health and human services provided for in 2-15-22012-15-2201.
- (4) "Establishment" means a retail food manufacturing establishment, meat market, food service establishment, perishable food dealer, or water hauler.
- (5) "Farmer's market" means a farm premises, a roadside stand owned and operated by a farmer, or an organized market authorized by the appropriate municipal or county authority.
- (6) "Food" means an edible substance, beverage, or ingredient used, intended for use, or for sale for human consumption.
- (7) (a) "Food service establishment" means a fixed or mobile restaurant, coffee shop, cafeteria, short-order cafe, luncheonette, grille, tearoom, sandwich shop, soda fountain, food store serving food or beverage samples, food or drink vending machine, tavern, bar, cocktail lounge, nightclub, industrial feeding establishment, catering kitchen, commissary, private organization routinely serving the public, or similar place where food or drink is prepared, served, or provided to the public at retail, with or without charge.  
(b) The term does not include:
  - (i) operations, vendors, or vending machines that sell or serve only packaged, nonperishable foods in their unbroken, original containers;
  - (ii) a private organization serving food only to its members;
  - (iii) custom meat cutters or wild game processors who cut, process, grind, package, or freeze game meat for the owner of the carcass for consumption by the owner or the owner's family, pets, or nonpaying guests; or
  - (iv) an establishment, as defined in 50-51-10250-51-102, that serves food only to its registered guests.
- (8) "Local board of health" means a county, city, city-county, or district board of health.
- (9) "Local health officer" means a county, city, city-county, or district health officer, appointed by the local board of health, or the health officer's authorized representative.
- (10) "Meat market" means an operation and buildings or structures in connection with it used to process, store, or display meat or meat products for retail sale to the public or for human consumption.
- (11) "Nonprofit organization" means any organization qualifying as a tax-exempt organization under 26 U.S.C. 501.
- (12) "Perishable food dealer" means an operation that is in the business of purchasing and selling perishable food to the public at retail.
- (13) "Person" means a person, partnership, corporation, association, cooperative group, the state or a political subdivision of the state, or other entity.
- (14) (a) "Potentially hazardous food" means a food that is natural or synthetic and is in a form capable of supporting:
  - (i) the rapid and progressive growth of infectious or toxigenic microorganisms; or
  - (ii) the growth and toxin production of *Clostridium botulinum*.  
(b) The term includes cut melons, garlic and oil mixtures, a food of animal origin that is raw or heat-treated, and a food of plant origin that is heat-treated or consists of raw seed sprouts.

(c) The term does not include:

- (i) an air-cooled, hard-boiled egg with intact shell;
- (ii) a food with a hydrogen ion concentration (pH) level of 4.6 or below when measured at 24 degrees C (75 degrees F);
- (iii) a food with a water activity (aw) value of 0.85 or less;
- (iv) a food in an unopened hermetically sealed container that is commercially processed to achieve and maintain commercial sterility under conditions of nonrefrigerated storage and distribution; or
- (v) a food for which laboratory evidence is accepted by the department as demonstrating that rapid and progressive growth of infectious and toxigenic microorganisms or the slower growth of *Clostridium botulinum* cannot occur.

(15) (a) "Preserves" means processed fruit or berry jams, jellies, compotes, fruit butters, marmalades, chutneys, fruit aspics, fruit syrups, or similar products that have a hydrogen ion concentration (pH) of 4.6 or below when measured at 24 degrees C (75 degrees F) and that are aseptically processed, packaged, and sealed.

(b) The term does not include:

- (i) tomatoes or food products containing tomatoes; or
- (ii) any other food substrate or product preserved by any method other than that described in subsection (15)(a).

(16) "Raw and unprocessed farm products" means fruits, vegetables, and grains sold at a farmer's market in their natural state that are not packaged and labeled and are not:

- (a) cooked;
- (b) canned;
- (c) preserved, except for drying;
- (d) combined with other food products; or
- (e) peeled, diced, cut, blanched, or otherwise subjected to value-adding procedures.

(17) "Regulatory authority" means the department, the local board of health, the local health officer, or the local sanitarian.

(18) "Retail" means the provision of food directly to the consumer.

(19) (a) "Retail food manufacturing establishment" means an operation and the buildings or structures used to manufacture or prepare food for sale or human consumption at retail.

(b) The term does not include:

- (i) milk producers' facilities, milk pasteurization facilities, or milk product manufacturing plants;
- (ii) slaughterhouses, meat packing plants, or meat depots; or
- (iii) producers or harvesters of raw and unprocessed farm products.

(20) (a) "Water hauler" means a person engaged in the business of transporting water for human consumption and use and that is not regulated as a public water supply system as provided in Title 75, chapter 6.

(b) The term does not include a person engaged in the business of transporting water for human consumption that is used for individual family households and family farms and ranches.

#### History:

En. Sec. 2, Ch. 17, L. 1967; amd. Sec. 1, Ch. 130, L. 1971; amd. Sec. 1, Ch. 349, L. 1974; R.C.M. 1947, 27-612; amd. Sec. 1, Ch. 199, L. 1987; amd. Sec. 1, Ch. 732, L. 1991; amd. Sec. 1, Ch. 315, L. 1995; amd. Sec. 136, Ch. 418, L. 1995; amd. Sec. 315, Ch. 546, L. 1995; amd. Sec. 1, Ch. 412, L. 1997; amd. Sec. 1, Ch. 428, L. 2001; amd. Sec. 28, Ch. 474, L. 2003; amd. Sec. 1, Ch. 528, L. 2003.

#### **50-50-103. Department authorized to adopt rules -- advisory council**

(1) To protect public health, the department may adopt rules relating to the operation of establishments defined in 50-50-10250-50-102, including coverage of food, personnel, food equipment and utensils, sanitary facilities and controls, construction and fixtures, and housekeeping.

- (2) (a) The department and local health authorities may not adopt rules prohibiting the sale of baked goods and preserves by nonprofit organizations or by persons at farmer's markets.
- (b) The department and local health authorities may not require that foods sold pursuant to this subsection (2) be prepared in certified or commercial kitchens.
- (3) The department shall use a food safety task force or advisory council to assist in the development of administrative rules or proposed legislation. The task force or advisory council must be composed of equal numbers of representatives of the food establishments and representatives of state and local government. Administrative rules and any legislation to be proposed by the department must be presented to the task force or advisory council prior to its proposal or introduction.

**History:**

En. Sec. 10, Ch. 17, L. 1967; amd. Sec. 107, Ch. 349, L. 1974; R.C.M. 1947, 27-620(part); amd. Sec. 2, Ch. 315, L. 1995; amd. Sec. 2, Ch. 528, L. 2003.

**50-50-104. Cooperative agreements authorized.**

The department may enter into cooperative agreements with other state agencies and political subdivisions of the state to carry out the provisions of this chapter.

**History:**

En. Sec. 10, Ch. 17, L. 1967; amd. Sec. 107, Ch. 349, L. 1974; R.C.M. 1947, 27-620(part).

**50-50-105. Diseased person not to handle food.**

A person who has a communicable disease may not work in any establishment or in the handling or processing of food.

**History:**

En. Sec. 9, Ch. 17, L. 1967; R.C.M. 1947, 27-619.

**50-50-106. Injunctions.**

The regulatory authority may bring an action for an injunction against any continued violation of this chapter or rule adopted by the department under this chapter.

**History:**

En. 27-615.2 by Sec. 3, Ch. 508, L. 1975; R.C.M. 1947, 27-615.2; amd. Sec. 29, Ch. 474, L. 2003.

**50-50-107. County attorney to prosecute violations.**

When the regulatory authority furnishes evidence to the county attorney of a county in this state, the county attorney shall prosecute any person, firm, or corporation violating this chapter or a rule effective under this chapter.

**History:**

En. Sec. 5, Ch. 17, L. 1967; amd. Sec. 107, Ch. 349, L. 1974; amd. Sec. 111, Ch. 349, L. 1974; amd. Sec. 2, Ch. 508, L. 1975; R.C.M. 1947, 27-615(5); amd. Sec. 30, Ch. 474, L. 2003.

**50-50-108. Violation -- misdemeanor.**

A person who purposefully or knowingly violates provisions of this chapter or rules adopted by the department under this chapter is guilty of a misdemeanor. Upon conviction, the person shall be:

- (1) fined not less than \$50 or more than \$100 for the first offense;
- (2) fined not less than \$75 or more than \$200 for the second offense;

(3) fined not less than \$200 and imprisoned in the county jail for not more than 90 days for the third offense and subsequent offenses.

History:

En. Sec. 15, Ch. 17, L. 1967; amd. Sec. 107, Ch. 349, L. 1974; R.C.M. 1947, 27-625; amd. Sec. 31, Ch. 474, L. 2003.

**50-50-109. Civil penalties-injunctions not barred.**

- (1) An establishment that violates this chapter or rules adopted by the department pursuant to this chapter is subject to a civil penalty not to exceed \$500.
- (2) Civil action to impose penalties, as provided under this section, does not bar injunctions to enforce compliance with this chapter or to enforce compliance with a rule adopted by the department pursuant to this chapter.

History: En Sec. 8, Ch.732, L. 1991

**50-50-110. Costs and expenses -- recovery by department or county.**

In a civil action initiated by the regulatory authority under this chapter, the court may, by petition of the regulatory authority, order an establishment that is found in violation of this chapter or rules adopted under this chapter to pay the costs of investigations and any other expenses incurred in enforcing the provisions of this chapter in the case of a willful violation. These costs are limited to the direct costs of investigations and other expenses.

History:

En. Sec. 8, Ch. 732, L. 1991; amd. Sec. 32, Ch. 474, L. 2003.

**PART 2**

**Licensing**

**50-50-201. License required.**

- (1) Except as provided in 50-50-20250-50-202, a person operating an establishment shall procure an annual license from the department.
- (2) A separate license is required for each establishment, but if more than one type of establishment is operated on the same premises and under the same management, only one license is required.
- (3) Only one license is required for a person owning and operating one or more vending machines.
- (4) A license issued by the department is not valid unless signed in accordance with 50-50-21450-50-214.

History:

En. Sec. 3, Ch. 17, L. 1967; amd. Sec. 107, Ch. 349, L. 1974; R.C.M. 1947, 27-613(1) thru (3); amd. Sec. 2, Ch. 200, L. 1979; amd. Sec. 2, Ch. 199, L. 1987; amd. Sec. 12, Ch. 366, L. 1997.

**50-50-202. Establishments exempt from license requirement -- farmer's market records.**

(1) Establishments owned or operated by the state or a political subdivision of the state that employ a full-time sanitarian are exempt from licensure but shall comply with the requirements of this chapter and rules adopted by the department under this chapter.

(2) A license is not required to operate an establishment if it is operated by a nonprofit organization for a period of less than 14 days in 1 calendar year. An establishment exempt from licensure under this subsection:

(a) must be operated in compliance with the remaining provisions of this chapter and rules adopted by the department under this chapter; and

(b) prior to each operation, shall register with the local health officer or sanitarian on forms provided by the department.

(3) (a) A license is not required of a gardener, farm owner, or farm operator who sells raw and unprocessed farm products at a farmer's market.

(b) A license is not required of a person selling baked goods or preserves at a farmer's market.

(4) (a) A farmer's market that is an organized market authorized by a municipal or county authority shall keep registration records of all individuals and organizations that sell baked goods or preserves at the market.

(b) The registration records must include but are not limited to the name of the seller, the seller's address and telephone number, the products sold by the seller, and the date the products were sold.

(c) The registration records must be made available to the local health officer or the officer's agent.

**History:**

En. Sec. 3, Ch. 17, L. 1967; amd. Sec. 107, Ch. 349, L. 1974; R.C.M. 1947, 27-613(6); amd. Sec. 3, Ch. 199, L. 1987; amd. Sec. 3, Ch. 315, L. 1995; amd. Sec. 3, Ch. 528, L. 2003.

**50-50-203 Application for license.**

An application for a license is made to the department on forms and contains information required by the department or is an application for a license that is in compliance with rules established by the board of review established in 30-16-30230-16-302.

**History:**

En. Sec. 4, Ch. 17, L. 1967; amd. Sec. 1, Ch. 48, L. 1973; amd. Sec. 1, Ch. 508, L. 1975; R.C.M. 1947, 27-614(1); amd. Sec. 13, Ch. 366, L. 1997.

**50-50-204 Right to license.**

Licenses shall be granted as a matter of right unless grounds for denial or cancellation exist.

**History:**

En. Sec. 3, Ch. 17, L. 1967; amd. Sec. 107, Ch. 349, L. 1974; R.C.M. 1947, 27-613(7).

**50-50-205 (Temporary) License fee -- late fee -- preemption of local authority -- exception.**

(1) (a) Except as provided in subsection (1)(b), for each license issued, the department shall collect a fee of \$75. It shall deposit 88% of the fees collected under this section into the local board inspection fund account created in 50-2-10850-2-108, 6% of the fees into the general fund, and 6% of the fees into the account provided for in 50-50-21650-50-216.

(b) For each license issued to an establishment that does not have more than two employees working at any one time, the department shall collect a fee of \$60, which must be deposited in accordance with the percentages provided in subsection (1)(a).

(2) In addition to the license fee required under subsection (1), the department shall collect a late fee from any licensee who has failed to submit a license renewal fee prior to the expiration of the licensee's current license and who operates an establishment governed by this part in the next licensing year. The late fee is \$25 and must be deposited in the account provided for in 50-50-21650-50-216.

(3) A county or other local government may not impose an inspection fee or charge in addition to the fee provided for in subsection (1) unless a violation of this chapter or rule persists and is not corrected after two visits to the establishment.

(4) The fees in subsections (1) and (2) may be paid by credit card and may be discounted for payment processing charges paid by the department to a third party. However, the discounting of license fees may not reduce the fees paid into the local board inspection fund account established in 50-2-10850-2-108.

(Terminates December 31, 2004--sec. 8, Ch. 528, L. 2003.)

**50-50-205. (Effective January 1, 2005) License fee -- late fee -- preemption of local authority -- exception.**

(1) (a) Except as provided in subsection (1)(b), for each license issued, the department shall collect a fee of \$90. It shall deposit 90% of the fees collected under this section into the local board inspection fund account created in 50-2-10850-2-108, 5% of the fees into the general fund, and 5% of the fees into the account provided for in 50-50-21650-50-216.

(b) For each license issued to an establishment that does not have more than two employees working at any one time, the department shall collect a fee of \$60, which must be deposited in accordance with the percentages provided in subsection (1)(a).

(2) In addition to the license fee required under subsection (1), the department shall collect a late fee from any licensee who has failed to submit a license renewal fee prior to the expiration of the licensee's current license and who operates an establishment governed by this part in the next licensing year. The late fee is \$25 and must be deposited in the account provided for in 50-50-21650-50-216.

(3) A county or other local government may not impose an inspection fee or charge in addition to the fee provided for in subsection (1) unless a violation of this chapter or rule persists and is not corrected after two visits to the establishment.

(4) The fees in subsections (1) and (2) may be paid by credit card and may be discounted for payment processing charges paid by the department to a third party. However, the discounting of license fees may not reduce the fees paid into the local board inspection fund account established in 50-2-10850-2-108.

**History:**

En. Sec. 3, Ch. 17, L. 1967; amd. Sec. 1, Ch. 48, L. 1973; amd. Sec. 1, Ch. 508, L. 1975; R.C.M. 1947, 27-614(2); amd. Sec. 48, Ch. 281, L. 1983; amd. Sec. 1, Ch. 336, L. 1983; amd. Sec. 1, Ch. 247, L. 1989; amd. Sec. 2, Ch. 732, L. 1991; amd. Sec. 14, Ch. 366, L. 1997; amd. Secs. 4, 5, Ch. 528, L. 2003.

**50-50-206. License not transferable.**

Licenses are not transferable or applicable to any premises other than that for which the license was issued.

**History:**

En. Sec. 3, Ch. 17, L. 1967; amd. Sec. 107, Ch. 349, L. 1974; R.C.M. 1947, 27-613(5).

**50-50-207. Expiration date of license.**

(1) Except as provided in subsection (2), licenses expire on December 31 following the date of issue unless canceled for cause.

(2) License renewals provided for in 16-11-12216-11-122, 30-12-20330-12-203, 50-50-20750-50-207, 80-7-10680-7-106, and 82-15-10582-15-105 expire on the anniversary date established by rule by the board of review established in 30-16-30230-16-302.

**History:**

En. Sec. 3, Ch. 17, L. 1967; amd. Sec. 107, Ch. 349, L. 1974; R.C.M. 1947, 27-613(4); amd. Sec. 15, Ch. 366, L. 1997.

**50-50-208. Local board to report number of licensees to department.**

Before June 1 of each year, the local board of health shall submit to the department a list of the establishments in each jurisdiction that are licensed under this chapter.

**History:**

En. Sec. 3, Ch. 17, L. 1967; amd. Sec. 1, Ch. 48, L. 1973; amd. Sec. 1, Ch. 508, L. 1975; R.C.M. 1947, 27-614(part).



**50-50-209. Cancellation of license.**

The department may cancel a license if it finds, after proper investigation, that the licensee has violated this chapter or a rule effective under this chapter and the licensee has failed or refused to remedy or correct the violation.

**History:**

En. Sec. 5, Ch. 17, L. 1967; amd. Sec. 107, Ch. 349, L. 1974; amd. Sec. 111, Ch. 349, L. 1974; amd. Sec. 2, Ch. 508, L. 1975; R.C.M. 1947, 27-615(part).

**50-50-210. Submission of plan of correction as bar to cancellation.**

Submission to the department of an acceptable plan of correction within 10 days after receipt from the department of written notice of violation and execution of an acceptable plan within the time prescribed in the written notice of approval of the plan by the department shall be a bar to prosecution for violation.

**History:**

En. Sec. 5, Ch. 17, L. 1967; amd. Sec. 107, Ch. 349, L. 1974; amd. Sec. 111, Ch. 349, L. 1974; amd. Sec. 2, Ch. 508, L. 1975; R.C.M. 1947, 27-615(part).

**50-50-211. Notice and hearing required.**

A license may not be denied or canceled by the department without delivery to the applicant or licensee of a written statement of the grounds for cancellation or denial or the charge involved and an opportunity to answer at a hearing before the department to show cause, if any, why the license should not be denied or canceled. In such case, the licensee must make a written request to the department for a hearing within 10 days after notice of the grounds or charges has been received.

**History:**

En. Sec. 5, Ch. 17, L. 1967; amd. Sec. 107, Ch. 349, L. 1974; amd. Sec. 111, Ch. 349, L. 1974; amd. Sec. 2, Ch. 508, L. 1975; R.C.M. 1947, 27-615(2).

**50-50-212. Cancellation of license for multiple-type establishment.**

When a multiple-type establishment is licensed by the department, the denial or cancellation of the license may affect the entire establishment or only a portion of it as determined by the department. A multiple-type establishment includes an establishment authorized by 50-50-20150-50-201(2).

**History:**

En. Sec. 5, Ch. 17, L. 1967; amd. Sec. 107, Ch. 349, L. 1974; amd. Sec. 111, Ch. 349, L. 1974; amd. Sec. 2, Ch. 508, L. 1975; R.C.M. 1947, 27-615(3).

**50-50-213. Return of license for alteration or destruction.**

On cancellation of a license or the right to operate one or more of the multiple-type establishments under the same license, the license certificate shall be returned to the department for destruction or deletion of types of establishment as the department may direct in its notice of cancellation.

**History:**

En. Sec. 5, Ch. 17, L. 1967; amd. Sec. 107, Ch. 349, L. 1974; amd. Sec. 111, Ch. 349, L. 1974; amd. Sec. 2, Ch. 508, L. 1975; R.C.M. 1947, 27-615(4).

**50-50-214. Notification of and validation by local health officer.**

(1) A license issued by the department under this chapter is not valid until signed by the local health officer in the county where the establishment is located or until the license is otherwise validated by the local health officer and is in accordance with rules established by the board of review established in 30-16-30230-16-302.

(2) The local health officer shall, within 15 days after the department has notified the local health officer of its decision to issue a license under this chapter, make a final decision on whether the license will be validated.

(3) Failure of the local health officer to validate the license within 15 days after its receipt is a refusal.

History:

En. Sec. 5, Ch. 200, L. 1979; amd. Sec. 16, Ch. 366, L. 1997.

**50-50-215. Refusal by local health officer -- appeal to board.**

(1) The local health officer may only refuse to validate a license issued under this chapter, upon a finding that the requirements of this chapter and any rules implementing it are not satisfied. If the local health officer refuses to validate the license, he shall notify the applicant and the department in writing stating his reasons.

(2) The applicant or any person aggrieved by the decision of the local health officer not to validate a license may appeal the decision to the local board of health within 30 days after receiving written notice of the local health officer's decision.

(3) The hearing before the local board of health shall be held pursuant to the contested case provisions of the Montana Administrative Procedure Act.

History:

En. Sec. 6, Ch. 200, L. 1979.

**50-50-216. Special revenue account.**

There is an account in the state special revenue fund. Money in the account is allocated to the department to be used to administer the provisions of this chapter and the rules adopted under it.

History:

En. Sec. 3, Ch. 732, L. 1991.

**50-50-217. Water hauler requirements.**

As a requirement for licensure, a water hauler may obtain potable water only from an approved public water supply system, as defined in 75-6-10275-6-102, or from sources approved and adopted by the department by rule.

History:

En. Sec. 2, Ch. 428, L. 2001.

**Part 3****Inspections****50-50-301. Health officers and sanitarians to make investigations and inspections -- training requirements.**

(1) State and local health officers, sanitarians-in-training, and registered sanitarians shall make investigations and inspections of establishments once a year and make reports to the department as required under rules adopted by the department. An inspection may be conducted more often than once a year.

(2) A person conducting an inspection must be certified and have completed a food safety training program, such as the program administered by the national restaurant association educational foundation or its equivalent.

History:

En. Sec. 11, Ch. 17, L. 1967; amd. Sec. 107, Ch. 349, L. 1974; R.C.M. 1947, 27-621(1); amd. Sec. 4, Ch. 732, L. 1991; amd. Sec. 6, Ch. 528, L. 2003.

**50-50-302. Health officers and sanitarians to have free access.**

State and local health officers, sanitarians-in-training, and sanitarians must be provided free access to establishments at all reasonable hours for the purpose of conducting investigations and inspections as required under this chapter.

History:

En. Sec. 11, Ch. 17, L. 1967; amd. Sec. 107, Ch. 349, L. 1974; R.C.M. 1947, 27-621(2); amd. Sec. 5, Ch. 732, L. 1991.

**50-50-303. Licensee to furnish food samples.**

Persons licensed under part 2 shall furnish food samples for analysis as required by rules adopted by the department.

History:

En. Sec. 11, Ch. 17, L. 1967; amd. Sec. 107, Ch. 349, L. 1974; R.C.M. 1947, 27-621(3).

**50-50-304. Discovery of food capable of causing food-borne illness.**

If a state or local health officer, sanitarian, or other authorized person finds food that is capable of causing food-borne illness, he shall issue a report in writing recommending that the food be withheld from sale to the public. A duplicate copy of the report, properly authenticated, is admissible in evidence in any action or proceeding where the condition of the food at the time of the inspection is material.

History:

En. Sec. 11, Ch. 17, L. 1967; amd. Sec. 107, Ch. 349, L. 1974; R.C.M. 1947, 27-621(4).

**50-50-305. Department to pay local board for inspections and enforcement.**

(1) Before June 30 of each year, the department shall pay to a local board of health, as established under 50-2-10450-2-104, 50-2-10650-2-106, or 50-2-10750-2-107, an amount from the local board inspection fund account created in 50-2-10850-2-108 that must be used only for the purpose of inspecting establishments licensed under this chapter and enforcing the provisions of this chapter; provided, however, that:

- (a) there is a functioning local board of health; and
- (b) the local board of health, local health officers, sanitarians-in-training, and registered sanitarians:
  - (i) assist in inspections and enforcement of the provisions of this chapter and the rules adopted under it; and
  - (ii) meet minimum program performance standards as established under rules adopted by the department.

(2) The funds received by the local board of health pursuant to subsection (1) must be deposited with the appropriate local fiscal authority and must be used to supplement, but not supplant, other funds received by the local board of health that in the absence of funding received under subsection (1) would be made available for the same purpose.

(3) Funds in the local board inspection fund account not paid to the local board of health as provided in subsection (1) may be used by the department, within any jurisdiction that does not qualify to receive

payments from the local board inspection fund account, to enforce the provisions of this chapter and the rules adopted under it.

History:

En. Sec. 3, Ch. 17, L. 1967; amd. Sec. 1, Ch. 48, L. 1973; amd. Sec. 1, Ch. 508, L. 1975; R.C.M. 1947, 27-614(part); amd. Sec. 5, Ch. 336, L. 1983; amd. Sec. 6, Ch. 732, L. 1991.

#### **Part 4**

#### **Frozen Food Lockers**

##### **50-50-401. Tagging or declaration requirements for stored meat.**

(1) The owner or operator of an establishment, as defined in this chapter, shall not receive the carcass of a game animal, game bird, or any quarter, half, or whole carcass of beef or veal unless:

(a) it is properly stamped or tagged; or

(b) a written declaration is filed by the owner stating how it was obtained, date placed in the locker, and weight and type of meat.

(2) A declaration made under subsection (1)(b) of this section shall be retained for 1 year and shall be open to inspection by employees of the department.

History:

En. Sec. 14, Ch. 17, L. 1967; R.C.M. 1947, 27-624(part).

##### **50-50-402. Plant owner not responsible for violation of game laws.**

A person who owns or operates a frozen food plant which offers individual compartments to the public is not responsible for violation of game laws by persons who rent locker space from him.

History:

En. Sec. 14, Ch. 17, L. 1967; R.C.M. 1947, 27-624(part).

##### **50-50-403. Liability of frozen food plant operators restricted.**

The liability for loss of food by the owner or operator of a frozen food plant which offers individual compartments to the public is limited to negligence in operation or negligence of his employees.

History:

En. Sec. 12, Ch. 17, L. 1967; R.C.M. 1947, 27-622.